

- 12 DEFECTIVE PETITIONS:** This section presents an overview of defective petitions. Defective petitions either prevent the case from being opened immediately or prevent the Regional Director from taking action on the case pursuant to § 2422.30(c). The nature of the defect determines whether the petition can be opened and its ultimate disposition. A basic understanding of defective petitions is required before processing any petition. This section distinguishes between defective petitions that prevent a case from being opened and those which prevent the Regional Director from taking action on the petition.
- 12.1 General policy requirements: All petitions are docketed** even though a petition may be defective. It is imperative that the Regional Director review all incoming petitions immediately to identify any defects. Delays in identifying and acting upon defects could eventually affect the processing of a petition. For instance, when a petition seeking an election is filed during the open period of a contract, the Regional Office quickly establishes whether the petitioner has submitted an adequate prima facie showing of interest. If the showing is inadequate, the Region's failure to make a timely determination could deny the petitioner an opportunity to submit additional showing of interest timely (see [CHM 18](#)).
- 12.2 What is a defective petition:** A petition is defective if it does not comply with the filing requirements set forth in § 2422.3 at the time it is filed. A defective petition differs from one in which it does not appear that it can be processed (for example, when a petition is clearly untimely). See [CHM 15.8](#).
- 12.2.1 Defects which prevent a case from being opened:** In certain cases, the petition is docketed, but it cannot be opened because the petitioner has not complied sufficiently with the regulations to warrant further processing of the case. Usually, the petition form is missing crucial information or the showing of interest in election or dues allotment cases is not attached. The Regional Director determines whether a petition is defective and cannot be opened ([CHM 12.3](#)).
- 12.2.2 Defects which may prevent the Regional Director from taking action on the case:** Some petitions do not comply fully with the filing requirements, but the procedural defects do not warrant delaying opening the case. These petitions are defective, but may be opened ([CHM 12.4](#)). However, the petitioner corrects the procedural defect before the Regional Director can take action on the case pursuant to § 2422.30.

12.3 Examples of defective petitions that may not be opened and delay initial communications with the parties: Such petitions cannot be opened and can only be cured by an amended petition. See [CHM 13](#) for guidance on amending petitions:

- a. The petitioner did not sign the petition form;
- b. The petition was not filed on the correct form or a reasonable facsimile of the correct form (FLRA Form 21);
- c. The petitioner did not explain the purpose of the petition or the stated purpose is so unclear given the other information provided with the petition that it raises questions about what the petitioner is seeking;
- d. The unit description is not provided;
- e. In a petition seeking an election, the showing of interest is not provided or in a petition seeking a determination of eligibility for dues allotment, the showing of membership is not provided;
- f. The preliminary showing of interest in an election petition cannot be checked because crucial information is missing on the petition form;
- g. The petitioner does not identify any parties affected by issues raised by the petition; or
- h. A local activity or labor organization files a petition on a matter relating to the representation of employees who are part of a nationwide exclusive bargaining unit or an agency-level consolidated unit. The names of the petitioner and agency affected by issues raised do not reflect the parties to the certification. Additionally, the local activity or local labor organization does not appear to be authorized to represent the party to the recognition/certification. (see [CHM 4.7](#), [14.2](#) and [20.1.1](#) for handling procedures).

If a petition is defective as described in this subsection, the region notifies the petitioner telephonically ([CHM 20.2](#)) and the Regional Director sends a confirming letter as set forth in [Figure 12.3](#) (with the exception of showing of interest defects - see below). The letter will advise the petitioner of the defect and state that absent an amended petition that corrects the defect, the petition will be dismissed.

NOTE: If the petition is defective because the petitioner seeking an election failed to submit a showing of interest or to complete Item #3, the

agent contacts the petitioner immediately since Authority case law requires that any showing of interest must be received not later than the last day on which the petition may be filed timely. Similarly, the showing must be adequate. [CHM 18.9](#) establishes unique time limitations for perfecting an inadequate showing of interest.

12.4 Examples of defective petitions that may be opened and do not delay initial communications with the parties:

- a. The unit description is unclear or inaccurate;
- b. The purpose of the petition and the results the petitioner seeks are unclear, but reasonably comply with §§ 2422.3(a)(8) and 2422.1, or provide sufficient information to warrant opening the case (see also **NOTE** at [CHM 5.2](#));
- c. The petitioner did not serve a copy of the petition on all parties known to the petitioner to be affected by issues raised by the petition;
- d. The petitioner did not submit an alphabetized list of names constituting the showing of interest although the showing was attached;
- e. Information pertaining to potential parties affected by issues raised appears inadequate.

The petitioner is notified of these defects telephonically which is confirmed by letter signed by the Regional Director as shown in [Figure 12.4](#). See also [CHM 20.2](#). The petitioner is provided with specific guidance on the information needed to correct the defect. For instance, if a petitioner fails to serve a copy of the petition on any party that the petitioner knows to be affected by issues raised by the petition, the petitioner is instructed to serve a copy of the petition on all known parties. The case, however, can be opened because the parties can be identified and the petition is clear in other respects. If the petitioner subsequently fails or refuses to comply with the regulations, the petition could be subject to dismissal.

NOTE: An amended petition may not be necessary to cure the defective petition described in [CHM 12.4](#). The Regional Director has discretion in such instances to decide when an amended petition is required ([CHM 13.8.2d](#)).

- 12.5 What happens to defective petitions: A petition will be dismissed if a petitioner does not comply with the Regional Director's request to correct a defective petition either by amending the petition or otherwise complying with the regulations. Regional personnel are available to assist the petitioner in amending the petition. Specific guidelines for processing defective petitions are found in [CHM 13](#) (*amending a petition*) and [CHM 20](#) (*reviewing the sufficiency of petitions and processing defective petitions*).

NOTE: Ultimately, the Regional Director decides whether to require an amended petition; however, the petitioner decides whether to amend a petition.